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INFO RUEHDL/AMEMBASSY DUBLIN PRIORITY 0081  
RUEHNY/AMEMBASSY OSLO PRIORITY 1331  
RUEHOT/AMEMBASSY OTTAWA PRIORITY 2086  
RUEHNO/USMISSION USNATO PRIORITY 0325  
RUEKJCS/Joint STAFF WASHINGTON DC PRIORITY  
RUEHGV/USMISSION GENEVA PRIORITY 2842  
RUEKJCS/SECDEF WASHINGTON DC PRIORITY  
RUCNDT/USMISSION USUN NEW YORK PRIORITY 0205

C O N F I D E N T I A L BERN 000238

SIPDIS

DEPT FOR PM/WRA (R.KIDD/K.BAKER), L (T.HEINEMANN), AND  
EUR/AGS (Y.SAINTE-ANDRE); USMISSION GENEVA FOR J.KOVAR

E.O. 12958: DECL: 05/19/2018

TAGS: MOPS PARM PREL NATO UN SZ

SUBJECT: OSLO PROCESS: PM/WRA CONSULTATIONS WITH  
AMBASSADOR SCHRANER - "FRIEND OF THE CHAIR" FOR  
INTEROPERABILITY

REF: BERN 227

Classified By: Poloff Chris Buck; reasons 1.4(b) and (d).

¶1. (C) Summary: Schraner emphasized that, as Friend of the Chair at the Dublin conference, she will seek to take a "realistic, balanced approach that can reach consensus." She said that it is her strong conviction that the convention will not be successful if the major military powers involved in the process do not remain on board. Schraner said that the Core Group had informed her that they really would like a consensus solution to the interoperability issue, preferring that it not come to a vote. PM/WRA Director Kidd underlined that the USG is not part of the Oslo Process, nor is the USG trying to wreck the Oslo Process; however, the USG has strong concerns about the possible impact of the current Oslo Process text on interoperability across the spectrum of military operations. Schraner commented that, as a lawyer, she personally would prefer "very clear language" in the convention, rather than a situation in which individual states would address the interoperability issue via national declarations. She said that she doubts that deleting Article 1(b) and (c) would be an option that could achieve consensus. Schraner referred to insertion of exemption language as one option, while holding out the possibility of a reservation article, perhaps in the form of a modification to Article 19.  
End Summary.

¶2. (C) PM/WRA Director Richard Kidd met May 16 with Ambassador Christine Schraner Burgener, MFA Deputy Head of the Directorate for International Law, to re-emphasize and further describe the USG's strong concerns regarding the threat to interoperability posed by the Oslo Process text in advance of the May 19 - 30 Dublin conference. Schraner was selected by the Irish conference hosts to serve as "Friend of the Chair" tasked with resolving the interoperability dispute among states participating in Oslo Process (reftel). She was joined in the meeting by Bernard Jeanty, Head of Arms Control and Disarmament Policy at the Swiss MOD. Mr. Kidd was joined in the meeting by the U.S. Mission Geneva Legal Advisor, the Embassy Bern Defense Attaché, and poloff.

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Schraner: "Realistic and Balanced Approach"  
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¶3. (C) Schraner emphasized that, as Friend of the Chair at the Dublin conference, she will seek to take a "realistic,

balanced approach that can reach consensus." She said that it is her strong conviction that the convention will not be successful if the major military powers involved in the process do not remain on board. Schraner indicated that she assumes that ten states would probably refuse the text and leave the Oslo Process if a suitable fix cannot be found to the interoperability problem. (Note: This number is considerably lower than PM/WRA's current count of 20-22 states, all but a couple of which are in Europe. End Note)

¶4. (C) Schraner indicated that Switzerland's main national goal at Dublin is to obtain an exemption for sensor-fused cluster munitions and a workable transition period. However, while commenting that Switzerland itself does not have major problems with interoperability issues, Schraner said that the GOS understands the importance of the issue to others, and therefore will do its best to seek a solution. She underlined that "no one wants to dismantle NATO or operations under Chapter 7" of the UN Charter. Schraner added that one of her first tasks in Dublin will be to convince non-Western states that interoperability is an issue, and to develop regional "Friends of the Friend" to assist in driving toward a suitable consensus outcome. She said that the Core Group had informed her that they really would like a consensus solution to the interoperability issue, preferring that it not come to a vote. Schraner reported that she had not yet consulted with the ICRC or Handicap International in her new role, but planned to do so before the beginning of the Dublin conference.

¶5. (C) Kidd underlined that the USG is not part of the Oslo Process, nor is the USG trying to wreck the Oslo Process;

however, the USG has strong concerns about the possible impact of the current Oslo Process text on interoperability across the spectrum of military operations, including humanitarian operations. He observed that the humanitarian impact of cluster munitions needs to be kept in proper perspective, as cluster munitions cause significantly less harm to civilians than other explosive remnants of war. Kidd noted that the USG is committed to a legally binding agreement on cluster munitions within the Convention on Conventional Weapons (CCW). He cautioned Schraner that she should expect high pressure in a politically and emotionally charged environment while performing her role as "Friend of the Chair" on the interoperability issue. Schraner replied that she is used to pressure, and already had been criticized for Switzerland taking on this role. She mentioned that there also is some domestic political pressure in Switzerland for a total ban on cluster munitions.

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Exemptions, Reservations...  
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¶6. (C) Schraner commented that, as a lawyer, she personally would prefer "very clear language" in the convention, rather than a situation in which individual states would address the interoperability issue via national declarations. At one point, she suggested that listing permissible cooperative activities might be a possible solution to the interoperability problem. However, Kidd illustrated for her in concrete terms the pitfalls and ultimate futility of such a listing approach, particularly with regard to interoperability with U.S. Forces.

¶7. (C) Schraner said that she doubts that deleting Article 1(b) and (c) would be an option that could achieve consensus. In response to the question of whether she was contemplating an additional paragraph to attempt a textual fix to the problematic article, Schraner said that she had received numerous suggestions for a way forward during her recent consultations in Geneva, and that she needs to be "tactical" in how she employs them. She referred to insertion of exemption language as one option, while holding out the possibility of a reservation article, perhaps in the form of a modification to Article 19.

CONEWAY